IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 1038 (S/S) of 2007

Sanjeev Kumar,
S/o late Sri Chatrapal Singh,
R/o C/o Sri Pyare Lal,
Vankandi Subhash Nagar,
Rishikesh,
District – Haridwar. **…….. Petitioner.**

Versus

1. State of Uttarakhand through Secretary, Education, Uttarakhand Shashan, Dehradun.
2. Director of Education, Uttarakhand, Dehradun.
3. District Basic Shiksha Adhikari, Pithoragarh.

……. Respondents.

Hon'ble M.M. Ghildiyal, J

Heard Sri Subhash Upadhyay, learned counsel for the petitioner and Sri Paresh Tripathi, learned counsel for the respondents.

By means of this writ petition, petitioner has prayed for the following relief.

a. Issue a writ, order or direction in the nature of Mandamus commanding the respondents to consider the case of the petitioner appointment under Dying in Harness Rules as per the Rules.

b. Issue a writ, order or direction in the nature of ad interim Mandamus commanding the respondent nos. 1 to consider and to decide the representation of the petitioner for grant of relaxation for appointment under Dying in Harness Rules within the time limit fixed by the Hon'ble Court.

c. *Issue a writ, order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*

d. *Award the cost of the petition to the petitioner.*

The stand of the petitioner is that father of the petitioner was working as Assistant Teacher in Primary School, Pithoragarh and he died on 10.01.1997 while in service. At time of petitioner's father death, petitioner was minor and could not apply for compassionate appointment under U.P. Recruitment of Department of Government Servant Dying in Harness Rules, 1974.

Rule 5 of the aforesaid Rules provide that for seeking appointment under this Rule the application may be made by the dependent within a period of five years from the date of death of government servant provided that where the State Government is satisfied that the time limit fixed for making application for employment causes undue hardship in any particular case, it may be dispense with or relaxed the requirement as it may consider necessary for dealing with the case in just and equitable manner.

Petitioner has moved application for compassionate appointment under U.P. Recruitment of Dependent of Government Servant Dying in Harness Rules, 1974, after lapse of five years before Director of Education and the same is still pending.

In view of the above, Director of Education, Uttarakhand, Dehradun is directed to forward the application of the petitioner to the State Government for taking action on the application of the petitioner within a period of two weeks from the date of production of certified

copy of this order and State Government shall take decision on the application of the petitioner within a period of two month from the date of receipt of application from Director of Education, Uttarakhand, Dehradun.

With this direction, writ petition as well as interim relief application is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J)

August 08, 2007
SKS